



FINDINGS AND DECISION OF THE PLANNING DIRECTOR:

PARTITION, FINAL PLAT APPROVAL FOR KLEIN, MAE (PF 05-43)

Property: Tax Lots 12302 and 12401 (portion) of Assessor's Map 18-03-06-33
Location: 2865 and 2869 Adams Street;
Area: 15,810 square feet
Zoning: R-1 Low-Density Residential
Request: Final partition plat approval to divide the existing flag lot property into two flag lots.
Applicant: Mae Klein
Representative: Marv Krush, Krush & Associates, (541) 686-9211
Lead City Staff: Kent Kullby, Associate Planner, (541) 682-5453
Relevant Dates: Application originally submitted on October 10, 2005; additional submittals received on October 17, 2005 and December 5, 2005; deemed complete on December 15, 2005; decision granting approval issued on December 15, 2005.

Present Request

The present request is for approval of the applicant's final partition plat, subject to the Type II land use application process of the Eugene Code (EC), to divide an existing flag lot into two flag lots. Relevant application procedures for this Type II request are primarily addressed at EC 9.7200-9.7230. The application requirements and approval criteria are primarily addressed at EC 9.8225-9.8245.

As noted above, the subject application for final partition plat approval was initially submitted on October 10, 2005. As part of the application materials, the applicant submitted a waiver of rights to the applicable completeness review time lines and procedures specified in the Oregon Revised Statutes [ORS 227.178(2)]. The applicant's waiver also acknowledges that the application will not be deemed complete for purposes of calculating the statutory 120-day time period [ORS 227.178(1)], until the City has received all the necessary application materials and has issued a written statement that the application is deemed complete. This decision serves as written notice that the application is formally deemed complete.

Upon a determination that the application included sufficient information for initial review, the Planning Division provided application referrals to the City's Public Works Engineering Division and the Eugene Water and Electric Board. Any relevant referral comments are included in the following evaluation. Public notice of the application was also mailed on October 19, 2005, in accordance with EC 9.7210. Staff received a letter against the proposed partition plat from Carmen Bayley and Harold Huestis. The letter was also signed by 7 other residents on Friendly Street adjacent to the proposed partition plat. Staff provided a response to the issues raised in the letter to Ms. Bayley and Mr. Huestis. Many issues raised

in the letter concerned a dwelling under construction on the existing flag lot in regards to R-1 zoning provisions. The purpose section of Chapter 9, Land Use, of the Eugene Land Use Code, EC 9.0020, was cited in the letter, but no specific arguments in regards to the criteria of approval for final partition plat decisions were raised. The evaluation of the criteria of approval contained in EC 9.8240 are stated below with findings.

For additional details concerning the applicant's request, please refer to the following evaluation of compliance with the applicable approval criteria, as well as the application file (PF 05-43). The application file for the previous, related tentative partition approval (PT 05-26) also provides useful background for the present request.

Evaluation

The following evaluation is intended to ensure that the proposed final partition plat complies with applicable approval criteria from the Eugene Code. The following findings demonstrate that the proposed final partition plat will comply with all applicable approval criteria, as set forth in EC 9.8240. The approval criteria are listed below (in **bold**), with findings addressing each:

9.8240(1) The City surveyor has approved the final plat for compliance with applicable platting requirements in accordance with state law.

Referral comments from Public Works Engineering staff confirm the City Surveyor's determination that the final plat complies with applicable platting requirements, in accordance with state law, Oregon Revised Statutes Chapter 92 and Chapter 209, and the above criterion.

9.8240(2) Streets, bicycle paths, accessways, and alleys for public use have been dedicated without any reservation or restriction other than reversionary rights upon vacation.

Staff found no requirements for public dedication of any streets, bicycle paths, accessways or alleys for public use were applicable in regards to the applicant's partition plat. As such, the above criterion is not applicable.

9.8240(3) Public improvements as required by this land use code or as a condition of tentative plan approval are completed, or:

- (a) A performance bond or suitable substitute as agreed upon by the City and applicant has been filed with the City finance officer in an amount sufficient to assure the completion of all required public improvements, or**
- (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the partition and the petition has been accepted by the City engineer.**

Consistent with subsection (b) above, a petition for future public improvements in Adams Street has been signed by the property owner, and the petition has been accepted by the City Engineer. Therefore, the application complies with the above criterion.

9.8240(4) Public assessments, liens, and fees with respect to the partition have been paid, or:

- (a) A segregation of assessments and liens has been applied for and granted by the City, or;**
- (b) An adequate guarantee in a form acceptable to the City manager has been provided assuring the liens, assessments and fees will be paid prior to recording the final plat.**

Referral comments from Public Works Engineering staff confirm that there are no outstanding liens or assessments in this instance. The applicant has paid the City's required plat check fees for processing of this final plat application. Therefore, the application complies with the above criterion.

9.8240(5) All conditions of tentative partition approval have been met and the final plat substantially conforms to the provisions of the approved tentative partition.

The conditions of tentative partition approval (PT 05-26) are listed below, with findings regarding compliance with each. It is also noted that a number of additional informational items were included in the tentative partition approval, related to final plat requirements and subsequent permitting processes. As those items are not conditions of approval, they will not be further addressed here, in the context of the above criterion.

- 1. The applicant shall submit an Irrevocable Petition for future improvements in Adams Street to include paving, curbs & gutter, storm drainage, wastewater sewers, concrete sidewalks, street lights, and street trees.*

As previously noted, an Irrevocable Petition for required improvements in Adams Street has been received and will be recorded concurrently with the final plat.

- 2. The applicant shall provide the necessary access easement documents suitable for recording prior to final plat approval in conformance with EC 9.6735 Public Access and EC 9.2775 Residential Flag Lot Standards for R-1, subsection (5)(c) Access, as conceptually shown on the tentative partition plan. The proposed private easement document(s) shall include maintenance agreements, and shall be reviewed for approval and recordation with the final plat.*

The applicant provided a signed, private access and utility easement and maintenance agreement. Staff reviewed the easement/agreement document and finds the provisions of it meet the condition of approval above. The document will be recorded concurrently with the final plat.

Given the above findings related to compliance with the applicable conditions of approval, and the determination that the final plat substantially conforms to the approved tentative partition, the applicable criterion has been met.

Decision

Based upon the available information and findings set forth above, it is concluded that the proposed final partition plat will conform to the applicable approval criteria from EC 9.8240, as required. Final partition plat approval is, therefore, granted.

Post-Approval

Pursuant to EC 9.7220(3), the Planning Director's decision regarding this Type II application is effective on the 13th day after notice of this decision is mailed, unless appealed according to the procedures in EC 9.7605. Upon the effective date, the final plat will be signed by the City Surveyor and Planning Director, then forwarded to Lane County for signature and recording.

It is also noted that, pursuant to EC 9.7230, the Planning Director's approval of this Type II final partition plat application shall expire in 18 months from the effective date of approval. Within that time, the final plat, as approved by the City, shall be recorded at Lane County Deeds and Records. If the approved final

plat is not recorded within 12 months after the final plat is submitted, the tentative partition approval is revoked and the land division procedures must be repeated.

This approval does not relieve the applicant of complying with other applicable provisions of the Eugene Code or Oregon Revised Statutes which may govern development of the subject property.

Approval Date:

Approval Granted By:

Gabriel Flock, Interim Principal Planner, for the Eugene Planning Director



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NOTICE OF DECISION

File Name: Klein, Mae

File Number: PF 05-43

Action/Location:

On December 15, 2005, the Eugene Planning Director approved the final partition plat application listed above, pursuant to Eugene Code Section 9.8225-9.8245. The property is located 2865 and 2869 Adams Street on Tax Lots 12302 and a portion of Tax Lot 12401 of Assessor's Map 18-03-06-33.

Learn More about the Project:

A copy of the application, the application approval criteria, public testimony, and all documents and evidence submitted by or on behalf of the applicant are available for inspection at the address listed below and copies of these materials may be obtained at a reasonable cost. This notice and the Planning Director's decision may also be available from the Pending Applications web site located at the internet address listed below. If you have questions regarding this application, contact the planner listed below or visit the planner-on-duty at the City's Permit and Information Center between 1 p.m. and 5 p.m. at the address listed below.

Appeal Procedures/Expiration:

Any person who is adversely affected or aggrieved by this decision, or who is mailed this written notice, may appeal the decision and pay an appeal fee in accordance with procedures listed in Section 9.7605 of the Eugene Code. The Planning Director's decision will become effective when the appeal period has expired. In this case, any appeal must be received by 5 p.m. on **December 27, 2005**, at the City's Permit and Information Center. Appeal procedures, forms, and fee information are available at the City's Permit and Information Center or on our web site. In accordance with Section 9.7055 of the Eugene Code, the Eugene Hearings Official will consider any appeals of this land use application.

Visit our Web Site: www.eugeneplanning.org

Contact the Planner:

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Date of Notice: December 15, 2005